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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/837,743	12/27/2001	Frank J. Ragen	FJR001U	9815
21805	7590	04/23/2004	EXAMINER	
JAMES C WESEMAN LAW OFFICES OF JAMES C WESEMAN 401 WEST A STREET SUITE 1600 SAN DIEGO, CA 92101			CONLEY, FREDRICK C	
		ART UNIT	PAPER NUMBER	
		3673		
DATE MAILED: 04/23/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/837,743	RAGEN, FRANK J.
	Examiner	Art Unit
	Fredrick C Conley	3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 January 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12,23-25,27-31 and 41-53 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2,4,8-12,22-24,30,31,41-47,52 and 53 is/are rejected.
- 7) Claim(s) 3,5-7,25,27-29 and 48-51 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4, 11, 22, 24, and 41-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 1,263,825 to Waugh in view of U.S. Pat. No. 1,964,271 to O'dwyer.

In reference to claim 1, Waugh discloses a support comprising:

a piece of fabric (b,c), the fabric having attached thereto means (a) for receiving a support pad;

the support pad of uniformly planar construction; and wherein when the support pad is inserted in the means for receiving the support pad, the support pad provides support. Waugh fails to disclose the support pad sized to simultaneously support the head, neck, and upper back of a baby. O'dwyer discloses a baby support comprising a support pad that simultaneously supports the head, neck, and upper back of a baby (col. 1 lines 1-3) so as to generally conform to the adjacent contour of the baby when the fabric is wrapped around the baby. It would have been obvious to one having ordinary skill in the art at the time of the invention to have the support pad of Waugh support the head, neck, and back of a baby as taught by O'dwyer in order to provide a support when traveling with small infants.

Regarding claim 2, wherein the means for receiving a support pad comprises a piece of material secured to the fabric about the periphery of the piece of material so as to form a pouch, said pouch configured to receive the support pad therein so as to maintain the support pad in a desired position with respect to the fabric (Waugh).

Regarding claim 4, Waugh discloses all of the Applicant's claimed limitations except for the fabric having a means for securing the fabric about the baby. O'dwyer discloses a means for securing (13,14) the fabric about the baby. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a means for securing as taught by O'dwyer in order to keep the infant centrally located on the support pad.

Regarding claim 11, wherein the pad is substantially the same length as the head and trunk of the baby along a portion under the baby.

In reference to claim 22, Waugh discloses a baby support comprising:
a blanket (b), the blanket having attached thereto means (a) for receiving a support pad in a desired position with respect to the blanket;
the support pad of uniformly planar construction; and wherein when the support pad is inserted in the means for receiving the support pad, the support pad provides support. Waugh discloses the claimed invention except for the profile of the support pad broader than a baby and substantially the same length as the baby and simultaneously supporting the head, neck, and upper back of the baby. O'dwyer discloses a baby support comprising a support pad that simultaneously supports the

head, neck, and upper back of a baby (col. 1 lines 1-3) so as to generally conform to the adjacent contour of the baby when the fabric is wrapped around the baby. It would have been obvious to one having ordinary skill in the art at the time of the invention to have the support pad of Waugh support the head, neck, and back of a baby as taught by O'dwyer in order to provide a support when traveling with small infants.

Regarding claim 24, wherein the means for receiving a support pad comprises a piece of material secured to the fabric about the periphery of the piece of material so as to form a pouch, said pouch configured to receive the support pad therein so as to maintain the support pad in a desired position with respect to the fabric (fig. 1)(Waugh).

In reference to claim 41, Waugh discloses a support system comprising:

a first support structure (b), the structure having attached thereto means (a) for receiving a second support structure;

the second support structure of uniformly planar construction; and wherein when the support pad is inserted in the means for receiving the support pad, the support pad provides support. Waugh fails to disclose the support pad simultaneously supporting the head, neck, and upper back of the baby. O'dwyer discloses a baby support comprising a support pad that simultaneously supports the head, neck, and upper back of a baby (col. 1 lines 1-3) so as to generally conform to the adjacent contour of the baby when the fabric is wrapped around the baby. It would have been obvious to one having ordinary skill in the art at the time of the invention to have the support pad of

Waugh support the head, neck, and back of a baby as taught by O'dwyer in order to provide a support when traveling with small infants.

Regarding claim 42, wherein the first support structure comprises a piece of fabric.

Regarding claim 43, wherein the first support structure comprises a blanket.

Regarding claim 44, wherein the second support structure comprises a resilient pad/mattress that would inherently conform to the baby's body.

Claims 8-9, 30-31, and 52-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 1,263,825 to Waugh in view of U.S. Pat. No. 1,964,271 to O'dwyer and U.S. Pat. No. 3,034,132 to Landsberger et al.

Regarding claims 8, 30, and 52, Waugh, as modified, discloses all of the Applicant's claimed limitations except for at least one snap connected to the cover; and at least one receiving snap connected to the fabric. Landsberger discloses at least one snap (16,17) connected to the cover; and at least one receiving snap (18,19) connected to the fabric. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ snaps as taught by Landsberger in order to secure the blanket around the infant.

Regarding claims 9, 31, and 53, Waugh, as modified, discloses all of the Applicant's claimed limitations except for the cover detachably affixed to the fabric by means of a complementary strips of Velcro. Landsberger discloses complementary strips of Velcro (71,72) connected to the fabric and cover. It would have been obvious

to one having ordinary skill in the art at the time of the invention to employ Velcro as taught by Lanserger in order to secure the blanket around the infant.

Claim 10 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 1,263,825 to Waugh in view of U.S. Pat. No. 1,964,271 to O'dwyer and U.S. Pat. No. 5,950,261 to Hay et al.

Regarding claim 10, Waugh, as modified, discloses all of the Applicant's claimed limitations except for the support pad being wider across a portion positioned under the baby's shoulder area and narrow across a portions positioned under the baby's foot. Hay discloses a support pad for a baby having a wider top portions and narrow bottom portion (fig. 5). It would have been obvious to one having ordinary skill in the art at the time of the invention to have the pad of Waugh with a wider top portion and narrow bottom portion as taught by Hay in order to construct the pad in a shape such as a heart.

Claims 12, 23 and 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 1,263,825 to Waugh in view of U.S. Pat. No. 1,964,271 to O'dwyer and U.S. 6,182,312 Walpin.

Regarding claims 12, 23, and 45, Waugh, as modified, discloses all of the Applicant's claimed limitations except for the pad comprising a memory foam. Walpin discloses a pad (24,26) comprising a memory foam. It would have been obvious to one having ordinary skill in the art at the time of the invention to have the pad of Waugh

comprise memory foam as taught by Walpin in order to provide improved support and allow the pad to further conform to the shape of the user.

In reference to claim 46, Waugh discloses a baby support system comprising:

a blanket (b), the blanket having attached thereto means (d) for receiving a support pad in a desired position with respect to the blanket; the support pad of uniformly planar construction; and wherein when the support pad is inserted in the means for receiving the support pad, the support pad provides support. Waugh discloses the claimed invention except for the profile of the support pad broader than the baby and substantially the same length as the baby and simultaneously supporting the head, neck, and upper back of the baby. O'dwyer discloses a baby support comprising a support pad that simultaneously supports the head, neck, and upper back of a baby (col. 1 lines 1-3) so as to generally conform to the adjacent contour of the baby when the fabric is wrapped around the baby. It would have been obvious to one having ordinary skill in the art at the time of the invention to have the support pad of Waugh support the head, neck, and back of a baby as taught by O'dwyer in order to provide a support when traveling with small infants. Waugh also fails to disclose the pad comprising a memory foam. Walpin discloses a pad (24,26) comprising a memory foam. It would have been obvious to one having ordinary skill in the art at the time of the invention to have the pad of Waugh comprise memory foam as taught by Walpin in order to provide improved support and allow the pad to further conform to the shape of the user.

Regarding claim 47, wherein the means for receiving a support pad comprises a piece of material secured to the fabric about the periphery of the piece of material so as to form a pouch, said pouch configured to receive the support pad therein so as to maintain the support pad in a desired position with respect to the fabric.

Allowable Subject Matter

Claims 3, 5-7, 25, 27-29, and 48-51 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-12, 22-25, 27-31, and 41-53 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fredrick C Conley whose telephone number is 308-7468. The examiner can normally be reached on m-th m-fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on 308-2978. The fax phone numbers for the organization where this application or proceeding is assigned are 305-7687 for regular communications and 3057687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-2168.



April 15, 2004



TERI PHAM LUU
PRIMARY EXAMINER